

REMARKS

On November 21, 2004, Aaron C. Deditch (reg. no. 33,865) and Examiner Ngo had a further phone call in connection with an earlier Examiner initiated phone call in which Examiner Ngo offered proposed amendments to the claims. Examiner Ngo advised that the case would be allowed if the following amendments were made: (i) in claim 1, line 9, change "predetermined" to --obtained--; (ii) in claim 3, line 14, change "predetermined" to --obtained--; and (iii) in claim 8, line 2, change "determined" to --obtained--. If the amendments were made, Examiner Ngo advised that he would allow all of claims 1 to 5 and 7 to 10, and the case would then issue. Aaron C. Deditch advised Examiner Ngo that approval would be needed from the Applicants.

Thus, on November 21, 2004, in response to the earlier Examiner-initiated call, Examiner Ngo was informed that the above amendments were agreed to, so that he could make the amendments by Examiner's Amendment, which was mailed on December 2, 2004 together with the Notice of Allowance and the Interview Summary.

The Interview Summary form that was used was PTOL-413, which states that Applicant is given one month from the Interview date (November 21, 2004) or from its mailing date (December 2, 2004), whichever is later, so that the one-month due date is January 3, 2005 (since January 2, 2004 is a Sunday).

However, since this was an Examiner initiated interview, it is respectfully submitted that PTOL-413B should have been used, and since the case was allowed, the first box of Part III of that form should have provided that Applicant did not need to provide a separate record of the interview, since the interview directly resulted in the allowance of the Application, and since the Examiner provided a written summary of the substance of the interview in the Notice of Allowability (which was done here).

It is noted that the Examiner Amendment and Interview Summary is correct as to the amendments agreed to by the Applicant.

If Applicant had initiated the Interview, then PTOL-413 would have been the proper form to use.

The foregoing procedures are documented and explained in the M.P.E.P. At 713.04 (pages 700-182 to 700-186).

Since, however, the Examiner sent form PTOL-413, it is believed that this response

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satisfies the request for Applicant to file a Statement of the Substance of the Interview (see pages 700-184 and 700-185 of the M.P.E.P.).

Conclusion

In view of the foregoing, it is respectfully submitted that all of claims 1 to 5 and 7 to 10 are allowed in view of the Notice of Allowability. It is therefore respectfully requested that the present application issue promptly.

Dated: 12/30/2004

Respectfully submitted,

By: 

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